

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 14 , 2005

In Reply Refer To:  
National Fuel Gas Supply Corporation  
Docket No. RP05-675-000

National Fuel Gas Supply Corporation  
6363 Main Street  
Williamsville, NY 14221-5887

Attention: Antoinetta D. Mucilli, Esq.  
Senior Attorney

Reference: Request for Waiver of Tariff Provisions

Dear Ms. Mucilli:

1. On September 19, 2005, National Fuel Gas Supply Corporation (National Fuel) filed a request for waiver of tariff provisions relating to cost contribution and financial assurances in connection with a proposed transportation service agreement with Seneca Resources Corporation (Seneca). National Fuel requests that the Commission grant the requested waivers on or before October 17, 2005, in order to provide transportation service for Seneca. For good cause shown, the Commission grants National Fuel's requested waivers subject to National Fuel offering the same type of waiver to any other similarly situated shipper on a non-discriminatory basis and other conditions, as discussed in further detail below.

2. Notice of the waiver request was issued on September 21, 2005, providing for interventions and protests to be filed by September 29, 2005. Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.<sup>1</sup> No party opposed or objected to the waiver request.

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<sup>1</sup>18 C.F.R. § 385.214 (2005).

3. National Fuel proposes to provide Rate Schedule FT transportation service of 1,500 Dth per day of natural gas for Seneca, an affiliated shipper, under a firm transportation agreement for a primary term of five years, subject to certain conditions. National Fuel states that the gas transported for Seneca will be received by National Fuel at a new interconnection with Seneca at Farmington Township, Clarion County Pennsylvania, and redelivered to National Fuel Gas Distribution Corporation (Distribution) at West Seneca, Erie County, New York. It states that the service will require the relocation and addition of facilities and the upgrade of Line QM-95 to operate at 720 psig. National Fuel avers that these modifications will not alter the capacity of National Fuel's mainline facilities and are therefore eligible for automatic authorization under its Part 157F blanket certificate.<sup>2</sup>

4. To provide the proposed service for Seneca, National Fuel requests waiver of certain tariff provisions relating to cost contributions and financial assurance. National Fuel requests waiver of section 28 of the General Terms and Conditions (GT&C) of its tariff, which entitles National Fuel to receive up-front reimbursement from Seneca for the cost of the facilities constructed to provide the proposed service.<sup>3</sup> National Fuel explains that it has negotiated an agreement with Seneca, in which it will not require reimbursement as long as Seneca performs under the firm transportation service agreement and provides a letter of credit. Under the negotiated agreement, it states, National Fuel could require contribution equal to the estimated facility cost of \$168,000, reduced by \$2,800 each month, if Seneca materially defaults in its payment obligations under the FT service agreement, or in the event of bankruptcy, reorganization, insolvency or similar proceeding. National Fuel indicates that Seneca will provide a letter of credit or other form of security acceptable to National Fuel drawable in the event of default. It states that the letter of credit provides that, during the primary term, the required amount of the security will exceed three months of reservation charges under the agreement (\$15,125.40). National Fuel notes that this letter of credit would provide National Fuel with an amount greater than the credit requirements set forth in section 31.2(a)(i)(B) of National Fuel's GT&C. Accordingly, National Fuel requests waiver of section 31.2(a)(i)(B) of its GT&C.<sup>4</sup>

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<sup>2</sup> Citing § 157.202(b)(2)(ii)(C) of the Commission's regulations, 18 C.F.R. § 157.202(b)(2)(ii)(C) (2005).

<sup>3</sup> See Original Sheet No. 455 to National Fuel's FERC Gas Tariff, Fourth Revised Volume No.1.

<sup>4</sup> This provision requires that National Fuel secure three months of collateral for providing transportation service. See Original Sheet No. 471 to National Fuel's FERC Gas Tariff, Fourth Revised Volume No.1.

5. For good cause, the Commission will grant National Fuel's waiver request subject to the following conditions. First, National Fuel must offer the same provisions to any similarly situated shipper on a non-discriminatory basis.<sup>5</sup> Second, National Fuel is required to file the non-conforming service agreement with Seneca and file a revised tariff sheet to revise section 34 of the GT&C of its tariff to list the agreement as a non-conforming service agreement.<sup>6</sup> National Fuel must file the agreement and revised tariff sheet no less than 30 days but not more than 60 days prior to the commencement of service. Further, in compliance with the Commission's order on Modification of Negotiated Rate Policy in Docket No. PL02-6-000, National Fuel is also directed to clearly delineate differences between the negotiated terms of the agreement and that of its Rate Schedule FT form of service agreement in redline and strikeout.<sup>7</sup>

By direction of the Commission.

Magalie R. Salas,  
Secretary.

cc: All Parties

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<sup>5</sup> The Commission finds that National Fuel's collateral requirement is consistent with our lateral line policy, since National Fuel is not requiring collateral that exceeds the cost of the facilities built to provide the proposed service. *See Calpine Energy Services, L.P. v. Southern Natural Gas Company*, 103 FERC ¶ 61,273 at 62,037 n.20 (2003).

<sup>6</sup> National Fuel states that the service agreement with Seneca will be executed following the satisfaction of all conditions. After the execution, National Fuel anticipates filing a revision to section 34 of its GT&C, identifying the agreement as a non-conforming service agreement.

<sup>7</sup> 104 FERC ¶ 61,134 at P 33 (2003).